

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ROBERT M. VILLA,

Petitioner,

v.

Case No. 5:02-CV-128

Hon. Gordon J. Quist

DENNIS STRAUB,

Respondent.

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**ORDER**

Petitioner has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter is now before the court on petitioner's a motion for bond pending petition (docket no. 51).

A grant of bail pending the resolution of a writ of habeas corpus is discretionary with the district court. *Morgan v. United States*, No. 93-2267, 1994 WL 182141 \* 1 (6th Cir. May 11, 1994); *Landano v. Rafferty*, 970 F.2d 1230, 1238 (3d Cir. 1992). In order to release a prisoner on bond pending a decision on the merits of a habeas petition, the prisoner must be able to show not only a substantial claim of law based on the facts surrounding the petition, but also the existence of circumstances making the motion for release on bond exceptional and deserving of special treatment in the interests of justice. *See Morgan*, 1994 WL 182141 \* 1; *Lee v. Jabe*, 989 F.2d 869, 871 (6th Cir. 1993); *Dotson v. Clark*, 900 F.2d 77, 78-79 (6th Cir. 1990). There will be few occasions where a prisoner will meet this high standard. *Dotson*, 900 F.2d at 79. "Since a habeas petitioner is appealing a presumptively valid state conviction, both principles of comity and common sense

dictate that it will indeed be the very unusual case where a habeas petitioner is admitted to bail prior to a decision on the merits in the habeas case." *Lee*, 989 F.2d at 871.

On April 26, 2005, the undersigned issued a Report and Recommendation concluding that petitioner is not entitled to habeas relief and recommending that his petition be dismissed. Petitioner's arguments, that he is not a flight risk, that he has strong family ties in Michigan and that his criminal conviction is likely to be vacated, are neither unique nor compelling, and fail to set forth exceptional circumstances sufficient to release him from state prison during the pendency of his federal habeas corpus petition. Accordingly, petitioner's motion for bond (docket no. 51) is DENIED.

**IT IS SO ORDERED.**

Dated: August 5, 2005

/s/ Hugh W. Brenneman, Jr.  
Hugh W. Brenneman, Jr.  
United States Magistrate Judge